

C O P Y

Opinion

1954

May 3

Mr. John McIntyre, Chairman
Board of Trustees
Laconia State School
Laconia, New Hampshire

Dear Sir:

On June 16, 1953 at the request of the superintendent, I rendered an opinion relative to R.L. c. 129, s. 10 as amended by s. h. c. 99, Laws of 1953. I wish to take this opportunity to modify that opinion as follows.

You inquired whether an approval of the Board of Trustees was necessary before a commitment by a Probate Court could take effect. It is my opinion that such an approval is necessary.

Section 10 of c. 129, as amended, provides that applications for committal shall be submitted by the Judge of Probate to the Mental Hygiene Clinic, or a suitable clinic approved by them, for study, report and recommendation by them prior to hearing. Upon a finding that such person is a suitable subject for said institution, such person may, with the approval of the trustees and superintendent, be committed to said school.

The effect of this action by the legislature is to provide the trustees with the power to refuse to accept children committed under a proper Probate Court order. It is my opinion however, that this power cannot be exercised in an arbitrary, capricious or unreasonable manner. The use of this power should be carefully controlled with a view towards a maintenance of the best interests of the state, together with a furtherance of the original design of the school.

Very truly yours,

Arthur E. Bean, Jr.
Assistant Attorney General

AKB, Jr/T

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